UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

DAIMLERCHRYSLER SERVICES

NORTH AMERICA LLC, : CASE NO. 4:05-CV-2848

Plaintiff,

vs. : ORDER & OPINION

: [Resolving Doc. No.90]

LABATE CHRYSLER, JEEP, DODGE, INC., et al.

:

Defendants.

:

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff DaimlerChrysler Services North America LLC ("Chrysler Financial") moves for partial summary judgment on the issue of liability against the Defendants, Labate Chrysler, Jeep, Dodge, Inc., et al. ("Labates"). [Doc. 90.] Ohio Edison Penn Power Credit Union and Seven Seventeen Credit Union, Intervening Plaintiffs/Counter-Claimants (the "intervening parties"), also assert claims against the Defendants and the Plaintiff. [Docs. 50, 51.] Specifically, each of the intervening parties asserts a claim against the Defendants on a defaulted loan and asserts a claim against the Plaintiff, alleging that it has a priority security interest in certain collateral that the Plaintiff repossessed. *Id.* The intervening parties' claims are retained for later determination. For the reasons set forth below, the Court **GRANTS** Plaintiff's motion for partial summary judgment on the issue of liability.

On August 23, 2006, the Defendants filed a proposed consent to partial summary

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judgment in favor of the Plaintiff (the "proposed consent"). [Doc. 103.] The terms of the

Defendants' proposed consent, which the Court accepts, are as follows:

The Defendants consent to summary judgment in favor of Chrysler Financial on all issues

as to liability. *Id.* Additionally, the Defendants agree to be jointly and severally liable to the

extent and in the amount of damages proven. *Id.* Further, the Defendants consent to summary

judgment in favor of Chrysler Financial on the claims in the Plaintiff's Complaint for non-

monetary damages. Id. Specifically, Defendants consent to the Plaintiff's claims in Counts IV

and V for replevin and injunctive relief. *Id.* Accordingly, Defendants assert that the interim

relief granted by the Court was proper and any bond may be released. *Id.*

Additionally, the Defendants consent to summary judgment in favor of Chrysler

Financial regarding the Defendants' counterclaims. *Id.* With respect to Chrysler Financial's

monetary claims, the Defendants propose that the parties proceed with an additional summary

proceeding and/or trial to resolve the issue of damages. *Id.* Additionally, the Defendants

propose that the Court's previous Order concerning discovery cutoff, status conferences, pretrial

and trial dates shall continue. Id.

For the reasons discussed above, the Court **GRANTS** the Plaintiff's motion for partial

summary judgment on the issue of liability.

IT IS SO ORDERED.

Dated: August 30, 2006

James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

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